

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON AGRICULTURE**

**Call to Order:** By **CHAIRMAN DIANE RICE**, on February 20, 2003 at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Diane Rice, Chairman (R)  
Rep. Verdell Jackson, Vice Chairman (R)  
Rep. Ralph Lenhart, Vice Chairman (D)  
Rep. Joan Andersen (R)  
Rep. Norman Ballantyne (D)  
Rep. Bob Bergren (D)  
Rep. Carol Lambert (R)  
Rep. Bruce Malcolm (R)  
Rep. Jim Peterson (R)  
Rep. Brennan Ryan (D)  
Rep. Veronica Small-Eastman (D)  
Rep. Frank Smith (D)  
Rep. Donald Steinbeisser (R)  
Rep. Bill Thomas (R)  
Rep. Karl Waitschies (R)

**Members Excused:** Rep. Norma Bixby (D)

**Members Absent:** None.

**Staff Present:** Lisa Gallagher, Committee Secretary  
Krista Lee Evans, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

**Committee Business Summary:**

Hearing & Date Posted: HB 644, 2/14/2003; HB 653,  
2/15/2003; HJ 23, 2/14/2003  
Executive Action: HB 653; HB 278; HB 644; HJ 23; HB  
594; HB 409

**HEARING ON HB 644**

**Sponsor:** REPRESENTATIVE DIANE RICE, HD 33, Harrison

**Opening Statement by Sponsor:**

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.9}***

**REP. RICE** said that what this bill does is remove the \$1 million bond and the EIS stipulations. This is a weather modification bill, that deals with cloud seeding, and will help accumulate snow pack. If there is cloud seeding in the summer, that is where there can be trouble, but with this bill it takes care of that by only allowing it during the winter months. This bill gets rid of the pit falls. The cloud seeder must register with the DEQ and there must be a two week notice to the local area.

**Proponents' Testimony:**

**Brooks Dailey, Executive Director Montana Farm Union**, submitted written testimony by James Sweeney, VP Weather Modification, Inc. **EXHIBIT**(agh38a01)

***{Tape: 1; Side: A; Approx. Time Counter: 6.4 - 14.1}***

**Darin Langerud, Director, North Dakota Atmospheric Resource Board**, submitted his written testimony, and also handed out a pamphlet titled "Atmospheric Water."

**EXHIBIT**(agh38a02)

**EXHIBIT**(agh38a03)

**Frank Nelson, Madison County**, said that they need snow pack. The Clark Canyon dam almost went dry, and there are many places that are looking at having no irrigation because the snow pack is too low.

***{Tape: 1; Side: A; Approx. Time Counter: 16.4 - 16.8}***

**John Semple, Montana Cattle Women**, said that they are in full support of this bill.

**Bob Stevens, Teton County**, said that his county used to have a weather modification program and they had lots of rain. However, now they are in terrible shape, and they need to try something.

**Barry Rice, Rancher, Harrison**, said that the snow pack is too low, and they need to try something.

**Opponents' Testimony:** none

**Informational Testimony:**

**Jack Stults, DNRC**, gave a brief history of the statutes dealing with weather modification, and said that the current statutes have expanded the use of weather modification.

**Questions from Committee Members and Responses:**

**REP. BALLANTYNE** asked Darin Langerud if he was familiar with the 1964 flood. **Darin Langerud** said, "No."

**REP. BALLANTYNE** said that in his county in 1964 they were cloud seeding and it caused a dam to overflow, and it flooded the Great Falls area. They lost 19 people and nine of those people were from one family. He said that he just wanted the committee to know that things can go wrong when cloud seeding.

**Darin Langerud** said that the State of North Dakota has taken some precautionary measures so tragic events like that will be prevented. They have a seeding suspension criteria, which is a safe guard to prevent accidents. They will not seed clouds if they are funnel clouds, and also they will suspend operations if the water level is too high.

**REP. LENHART** asked Darin Langerud if cloud seeding was in law in the state of North Dakota. **Darin Langerud** said, "Yes."

**REP. LENHART** asked Darin Langerud if anyone has sued the state for damages. **Darin Langerud** said that the last case was 30 years ago and it was not successful. He also said that there has never been a successful suit against the state.

**REP. WAITSCHIES** asked REP. RICE what the current bonding was for cloud seeding. **REP. RICE** said, "\$1 million."

**REP. WAITSCHIES** asked REP. RICE what was wrong with that. **REP. RICE** said "It is prohibitive, and if you wanted to go get a one million dollar bond you would have a hard time getting one."

**REP. WAITSCHIES** asked REP. RICE if there was a possibility for liability. **REP. RICE** said that is the reason why it is limited to the winter.

**REP. JACKSON** asked Darin Langerud if he would explain how cloud seeding was done. **Darin Langerud** said that in North Dakota they get a weather briefing everyday. From those briefings times are

delivered to the pilot crews as to when they will cloud seed. They weather monitor with radar, and they also use visual observation. Then the aircraft is dispersed to the cloud.

**{Tape: 1; Side: B; Approx. Time Counter: 0 - 4.2}**

**Darin Langerud** said that they use super cooled liquid water, along with silver iodide, which hydrates itself, and when it gets to four or five degrees it freezes. This starts the precipitation process.

**REP. STEINBEISSER** asked Darin Langerud after the cloud is seeded how long does it for precipitation. **Darin Langerud** said that it depends on the size of the cloud, and the amount of silver iodide, but it can take anywhere from a couple of minutes to a half an hour.

**REP. ANDERSON** asked Darin Langerud if there was a possibility for hailstorms in the winter. **Darin Langerud** said that hailstorms have to have potential instability in the clouds, and in the winter the clouds do not have that. The risk in the winter for a hailstorm would be zero.

**Closing by Sponsor:**

**{Tape: 1; Side: B; Approx. Time Counter: 4.2 - 6.6}**

**REP. RICE** said that in 1993 the ranchers in eastern Montana were disturbed because North Dakota was stealing their precipitation, and that is the reason why the bill is structured this way. However, this will bring back weather modification to the mountains. Flares can be used instead of aircraft to cloud seed. This is a safe way to cloud seed, and this bill provides for a two-week notice to be given to countries that will be cloud seeding. It will be several years before the State of Montana has to worry about floods.

**HEARING ON HJ 23**

**Sponsor:** REPRESENTATIVE JONATHAN WINDY BOY, HD 92, Box Elder

**Opening Statement by Sponsor:**

**{Tape: 1; Side: B; Approx. Time Counter: 7.6 - 16.6}**

**REP. WINDY BOY** read through the entire bill, and they read a letter from Alvin Windy Boy, Sr. Chairman of the Chippewa Tribe.

**EXHIBIT (agh38a04)**

**Proponents' Testimony:** none

**Opponents' Testimony:**

**Bill Donald, Montana Stock Growers Association,** said that the beef checkoff is fair, it is not taxation without representation. Everyone pays, and everyone uses it. Bill Donald said, "Mike Tutsie a Indian representative on the Montana Beef Council used money from the checkoff program." He also handed out a pamphlet titled "2002 Annual Report Montana Beef Council."

**EXHIBIT (agh38a05)**

**Robin Kirscher, Montana Cattle Women,** said that all retail grocery stores on the reservation use the beef checkoff money. There are many Indians that use the beef checkoff money, and that is why this resolution should not pass.

**John Youngberg, Montana Farm Bureau,** said that everyone uses it and everyone gets benefits from it.

**Informational Testimony:**

**Mark Bridges, Executive Officer Montana Board of Livestock,** said that he was there to answer any questions that the committee might have.

**Questions from Committee Members and Responses:**

*{Tape: 2; Side: A; Approx. Time Counter: 0 - 2.5}*

**REP. LAMBERT** asked **REP. WINDY BOY** if there is someone from the tribe that sits on the beef council. **REP. WINDY BOY** said, "Yes, there was one guy who served a three year term, Mike Tutsie."

**REP. LAMBERT** asked **REP. WINDY BOY** if he brought back information. **REP. WINDY BOY** said he did, there are 2.6 million head of cattle in the State of Montana, and 26% are Indian owned.

**REP. BERGREN** asked **REP. WINDY BOY** if this truly was an unlawful tax on the reservation why are the tribes paying it. **REP. WINDY BOY** said that they do pay taxes, a fee is considered a tax.

**REP. BERGREN** stated that precedence has been set that the tribes do not need to pay unlawful taxes. **REP. BERGREN** asked **REP. WINDY BOY** why they have to pay this, if it was because of the federal government. **REP. WINDY BOY** said, "Yes, it is because of the federal government."

**REP. BERGREN** said that it is fair to say that the promotion of the sale of beef is important, and he asked **REP. WINDY BOY** why shouldn't everyone pay for it. **REP. WINDY BOY** said, "Yes, he agreed, and there is an opportunity for the Indians to be involved on the beef council if they apply. The cattle producers just want to be treated fairly. There is no specification on the cattle that is raised on the Indian Reservations, and we want to promote our own beef."

**REP. STEINBEISSER** asked **REP. WINDY BOY** why he is against the checkoff because he gets the same benefits that **REP. STEINBEISSER** does. **REP. WINDY BOY** said that he is trying to promote opportunity and fairness, because it has not existed for so long. The checkoff is unconstitutional and the reservations should be reimbursed.

**REP. SMALL-EASTMAN** asked Mark Bridges how the checkoff started. **Mark Bridges** said that it started in 1985 in the federal farm bill, and prior to that Montana had a 25 cent voluntary checkoff.

**REP. SMALL-EASTMAN** asked **REP. PETERSON** the same question. **REP. PETERSON** said that the legislation passed in 1985, and in 1986 every person had the opportunity to vote on the national beef referendum. It passed and a \$1 checkoff was implemented to promote beef, do research, and educate. There is a provision that would get rid of the checkoff, it has been tried, but it failed.

**REP. SMALL-EASTMAN** asked **REP. PETERSON** is this was ever a tax. **REP. PETERSON** said, "No, it was a self-imposed checkoff, where half of the dollar goes to the national level, and the other half goes to the state."

**REP. SMALL-EASTMAN** asked Bill Donald if the case in Billings was Native American. **Bill Donald** said, "No."

**REP. THOMAS** asked Bill Donald what the return on the dollar is with this program. **Bill Donald** said that is it five to one, for every dollar put in, they get five dollars back in return.

**REP. THOMAS** asked Bill Donald if the Native Americans would benefit just as much. **Bill Donald** said, "Yes they would."

**Closing by Sponsor:**

**REP. WINDY BOY** said that for too long the Native Americans have been at a disadvantage, and he is asking for fairness.

HEARING ON HB 653

Sponsor: REPRESENTATIVE CAROL LAMBERT, HD 1, Broadus

Opening Statement by Sponsor:

*{Tape: 2; Side: A; Approx. Time Counter: 22.2 - 27}*

REP. LAMBERT submitted her written testimony.

**EXHIBIT**(agh38a06)

Proponents' Testimony:

John Youngberg, Montana Farm Bureau, said that their members want to keep the state grain lab open. They want to ensure that everyone knows the services and the costs of the state grain lab.

Richard Owen, VP Montana Grain Growers, submitted his written testimony.

**EXHIBIT**(agh38a07)

*{Tape: 2; Side: B; Approx. Time Counter: 0 - 0.5}*

Chris Christiaens, Montana Farmers Union, said that this bill is critical to help the state grain lab, and it meets the needs of the grain lab.

Pam Langley, Montana Grain Elevators Association, said that they are in support of this bill.

Ralph Peck, Director of Montana Department of Agriculture, submitted his written testimony.

**EXHIBIT**(agh38a08)

Opponents' Testimony: none

Questions from Committee Members and Responses:

REP. BALLANTYNE asked John Youngberg if the state grain lab has the capabilities to handle all the testing in the state. John Youngberg said that he did not know, but the state grain lab can be used as an alternative.

REP. BALLANTYNE asked John Youngberg what the turn around time was. John Youngberg said one to three days.

*{Tape: 2; Side: B; Approx. Time Counter: 4 - 5.4}*

**Closing by Sponsor:**

REP. LAMBERT said that there is no fiscal note with this bill, and this is just giving the producers a chance to decide which grain lab they would like to use.

**EXECUTIVE ACTION ON HB 653**

**Motion:** REP. PETERSON moved that HB 653 DO PASS.

**Discussion:**

REP. PETERSON said that the state grain lab is important so that there is an independent third party.

**Motion:** REP. RICE moved that HB 653 BE AMENDED.

**Discussion:**

Krista Lee Evans explained the amendment.

**EXHIBIT** (agh38a09)

REP. LAMBERT said this is a friendly amendment.

REP. THOMAS asked REP. WAITSCHIES if there is a difference in the grading from the private lab and the state grain lab, what is the outcome. REP. WAITSCHIES said that the state grain lab is the official grading.

**Motion/Vote:** REP. WAITSCHIES moved that HB 653 DO PASS AS AMENDED. Motion carried 16-0, by voice vote.

**EXECUTIVE ACTION ON HB 278**

**Motion/Vote:** REP. PETERSON moved that HB 278 BE TABLED. Motion carried 16-0, by voice vote.

**EXECUTIVE ACTION ON HJ 23**

**Motion:** REP. BALLANTYNE moved that HJ 23 BE TABLED.



**Discussion:**

**REP. THOMAS** said that he did some math, and the Indian Reservation put in \$8.06 million and get \$40.3 million back.

**REP. PETERSON** said that the checkoff was initiated because of a decline in the beef market. However, because of the easy to use, easy to serve beef products that have been developed there has been a reverse in the decline of beef. All beef producers benefit, and that is why he is against this resolution.

**Vote:** Motion that **HJ 23 BE TABLED** carried 12-4 with **REPS. BALLANTYNE, BIXBY, SMALL-EASTMAN, and SMITH** voting no, by voice vote.

**EXECUTIVE ACTION ON HB 644**

**Motion:** **REP. LAMBERT** moved that **HB 644 DO PASS**.

**Discussion:**

**REP. LAMBERT** said that there is a great need for this bill.

**REP. STEINBEISSER** said that cloud seeding in the winter is ok.

**Vote:** Motion that **HB 644 DO PASS** carried 16-0, by voice vote.

**EXECUTIVE ACTION ON HB 594**

**Motion:** **REP. SMALL-EASTMAN** moved that **HB 594 DO PASS**.

**Discussion:**

**REP. SMALL-EASTMAN** said that the current prices that are being used to calculate are from 1993, and she would like to see the prices brought up to the 2003 level. She handed out to the committee a chart of the statewide competitive bid summary.

**EXHIBIT (agh38a10)**

**REP. LENHART** said that the farmers in Glendive are in a drought and they will not be able to take a hit like this.

**REP. JACKSON** said that he raises cattle for six months, and he makes less than \$100 per head. The beef market is controlled by Canada, and the price of cattle is the factor in surviving. The demand is determined by the value of the land.

***{Tape: 3; Side: A; Approx. Time Counter: 0 - 2.8}***

**REP. JACKSON** said that ranchers will not be able to survive and compete at a rate that is three times higher. Maintenance is required every year on land. The old formula takes into consideration the price of cattle and the money that is produced through the land. Private property is much more productive. This will push people out of their leases and the state will only be making 50% on the land.

**REP. BERGREN** said that in these times ranchers and farmers have had to sell of their cattle to make it through. There needs to be some type of incentive to lease state land. The proper avenue for a raise in the fees of state lands is up to the State Land Board, which is compromised of the top five elected officials in the state.

**REP. LAMBERT** said that she is against this bill because it would put out to bid state land, and that would cause hardship on the state. Also most of the state land is unfenced.

**REP. PETERSON** explained to **REP. SMALL-EASTMAN** how the grazing fees were established.

**Vote:** Motion that **HB 594 DO PASS** failed 3-13 with **REPS. BIXBY, SMALL-EASTMAN, and SMITH** voting aye, by roll call vote.

**Motion/Vote:** **REP. LAMBERT** moved that **THE VOTE ON HB 594 BE REVERSED AND THE BILL BE TABLED**. Motion carried 16-0, by voice vote.

#### **EXECUTIVE ACTION ON HB 409**

**Motion:** **REP. LENHART** moved that **HB 409 DO PASS**.

**Motion:** **REP. LENHART** moved that **HB 409 BE AMENDED**.

**Discussion:**

***{Tape: 3; Side: A; Approx. Time Counter: 14.5 - 23.6}***

**Krista Lee Evans** explained the amendments to the committee.  
**EXHIBIT**(agh38a11)

**REP. ANDERSON** asked **Krista Lee Evans** if this bill complies with the federal plant protection act, with what is in code. **Krista**

**Lee Evans** said that AFIS has oversight over it, and for the federal requirements you have to have a federal permit.

**REP. ANDERSON** asked Krista Lee Evans if they have jurisdiction over the federal requirements. **Krista Lee Evans** said that they cannot do anything without the federal regulations.

**REP. ANDERSON** asked Krista Lee Evans if this bill passed would the federal guidelines still be in place. **Krista Lee Evans** said, "Yes, those would still apply."

**REP. BALLANTYNE** asked **REP. LENHART** if he was comfortable with the language in this bill. **REP. LENHART** said that is a tough question to answer, and it does water the bill down.

**REP. PETERSON** asked **REP. LENHART** if he was correct in assuming that this amendment strips out the authority of the Department of Agriculture. **REP. LENHART** said, "Yes, that is correct."

**REP. PETERSON** said that is unfair to put the Department of Agriculture in that position.

**Krista Lee Evans** said that there is still a filing fee, and that would cover the costs of the Department.

*{Tape: 3; Side: B; Approx. Time Counter: 0 - 2.3}*

**REP. THOMAS** asked John Youngberg his opinion of this amendment. **John Youngberg** said that he concurs with **REP. PETERSON** that it puts the Department of Agriculture in a bad position and they are still opposed to this bill.

**Krista Lee Evans** said that there might be a federal issue with this in regard to the interstate commerce clause.

**REP. WAITSCHIES** said that he agrees with **REP. PETERSON** and that the point of this bill is to stop genetically-engineered wheat. There is no way to prove that there will not be a lose of market.

**Vote:** Motion that **HB 409 BE AMENDED** failed 7-9 with **REPS. BALLANTYNE, BERGREN, BIXBY, JACKSON, LENHART, RYAN, and SMALL-EASTMAN** voting aye, by roll call vote.

**Motion/Vote:** **REP. THOMAS** moved that **HB 409 DO PASS**. Motion failed 4-12 with **REPS. BALLANTYNE, BIXBY, LENHART, and SMALL-EASTMAN** voting aye, by roll call vote.

Motion/Vote: REP. LAMBERT moved that **THE VOTE ON HB 409 BE REVERSED AND TABLED.** Motion carried 16-0, by voice vote.

**ADJOURNMENT**

Adjournment: 6:00 P.M.

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REP. DIANE RICE, Chairman

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LISA GALLAGHER, Secretary

DR/LG

**EXHIBIT** (agh38aad)